Book 2010 Page 2055
Document 2010 2055 Type 06 006 Pages 4
Date 7/02/2010 Time 1:23:46PM
Rec Amt $24.00

DEBORAH L PEYTON, RECORDER/REGISTRAR
DELAWARE COUNTY IOWA

Prepared by: Michael A. Bowman, P.O. Box 351, Monticello, Iowa 52310 Ph: (319)465-5448
Return to: Nathan Freeze, 2934 Hwy 38, Hopkinton, IA 52237 Ph: 563-926-2629

JOINT USE WELL AND WATER AGREEMENT

THIS AGREEMENT is made and entered into this 31st day of May, 2004, by and between James L. Freeze and Diane L. Freeze, husband and wife, hereinafter referred to as FIRST PARTY, and Nathan J. Freeze and Courtney B. Freeze, husband and wife, hereinafter the SECOND PARTY,

Whereas, the FIRST PARTY is the owner of the following described real estate:

The East 5 acres of the NW ¼ of the NW ¼ and the E ½ of the NW ¼ and all that part of the North 426.0 feet of the NE ¼ of the SW ¼ lying N and E of the Highway, and that part of the SW ¼ of the NW ¼ described as beginning at the NE corner thereof and running thence S 60 rods to Highway 38, thence along said highway to the N line of the SW 1.4 of the NW ¼, thence East to the point of beginning, all in Section 12, Twp 87 North, Range 4 West of the 5th P.M.
EXCEPTING, Parcel D part of the SW ¼ of the NW ¼ and part of the SE ¼ of the NW ¼ all in Section 12, Township 87 North, Range 4 West of the 5th P.M., Delaware County, Iowa.

Whereas, the SECOND PARTY is the owner of the following described real estate:

Parcel D part of the SW ¼ of the NW ¼ and part of the SE ¼ of the NW ¼ all in Section 12, Township 87 North, Range 4 West of the 5th P.M., Delaware County, Iowa.

Whereas, there is a water system, consisting of a well, electrical components, pump, pipes, and other and necessary appurtenances thereto, located on the real estate of the FIRST PARTY, and

Whereas, it is necessary and desirable that an agreement, in writing, be entered into by and between the parties for the future joint and common use of such well and water system by the parties hereto and respective successors and assigns.

NOW THEREFORE, IT IS HEREBY AGREED by and between the parties as follows:

1. That the FIRST PARTY does hereby grant unto the SECOND PARTY a waterline right of way and easement, over and across the property owned by the FIRST PARTY. The parties agree that the waterline will be installed at the expense of the SECOND PARTY. The waterline shall be considered to be the property of the SECOND PARTY. The expense of repair, maintenance or replacement of the waterline shall be borne solely by the SECOND PARTY, and the SECOND PARTY shall have the right to enter upon the premises owned by the FRIST PARTY for the purpose of any necessary and required maintenance, repair or replacement of the waterline. All damages to the property of the FIRST PARTY caused by any such maintenance, repair or replacement of the waterline shall be borne by the SECOND PARTY.

2. That the FIRST PARTY shall own and be solely responsible for any maintenance, repair or replacement of any waterline from said well to any buildings owned by the FIRST PARTY.

3. The parties shall each be entitled to water from the water system for their respective properties upon the following terms and condition:

   a. The pressure tank for said water system is located on the FIRST PARTIES' property and is owned by the FIRST PARTY. FIRST PARTY shall insure the well under a homeowner's or other policy. SECOND PARTY shall install their own pressure tank.

   b. All repairs, maintenance, or treatments to the well shall be shared equally between the parties. Any major repairs of maintenance to the well and water system shall be mutually agreed upon between the parties and costs thereof shared equally between the parties. If the water well should fail with no possibility of repair, then either party upon thirty (30) days written notice to the other party may terminate this Agreement. In addition, the parties shall share equally in covering the deductible costs not covered by insurance under and insurance claim.

   c. That neither party shall be liable, one to the other, for failure to furnish water.

   d. It is furthered stipulated and agreed that neither party guarantees to the other the water in the above well to be free from pollution, a high bacteria count, a nitrate count or other quality that may be inimical to health; that each of the parties do agree to use reasonable means to keep such water pure and safe for human consumption.

e. The FIRST PARTY shall provide and maintain electrical power to the well for normal operations. SECOND PARTY shall pay FIRST PARTY 1.00 per month to cover the cost of pumping water once the SECOND PARTY is hooked up to the well.

4. That this Agreement may be canceled and terminated as follows:

a. By mutual written consent of the parties.

b. Upon the SECOND PARTIES drilling a well on their own property with acceptable potable water and giving thirty (30) days written notice to the FIRST PARTY of the termination of this Agreement.

c. In accordance with Paragraph 3 (b).

d. Upon water being made available to the parties either by a municipality or rural water supply system.

5. That neither party shall convey or assign any of it s rights for the use of said water well and system to any other parties or businesses located off the premises. If there should be a substantial increase of water use and electrical costs by any future party, then, and in that event, the parties shall proportionately share the cost of any such electricity for said water system determined upon each parties use thereof.

6. That this Agreement is deemed to be a covenant running with the land and shall be binding upon the respective parties hereto and their heirs, successors and assigns.

7. This Agreement shall supersede any prior oral or written agreement, or any prior usage by the respective parties hereto.

James L. Freeze
FIRST PARTY

Nathan J. Freeze
SECOND PARTY

Diane L. Freeze
FIRST PARTY

Courtney B. Freeze
SECOND PARTY

STATE OF IOWA)
)
) ss:
Delaware COUNTY)

On this 31st day of May, 2004, before me, the undersigned, a notary public in and for the State of Iowa, did personally appear James L. Freeze, Diane L. Freeze, Nathan J. Freeze and Courtney B. Freeze, to me known to be the identical persons named in and who executed the within and foregoing instrument; and acknowledged that they executed the same as their voluntary act and deed.

NOTARIAL SEAL IOWA
JASON M. HEISLER
Commission Number 719133
My Commission Expires
10/18/11

Notary